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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/701,501

01/08/2001

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D078 1100

5324

7590

01/11/2005

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EXAMINER

AHMED, SHEEBA

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/701,501	<b>Applicant(s)</b> MARKMANN ET AL.	
	<b>Examiner</b> Sheeba Ahmed	<b>Art Unit</b> 1773	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10,12,14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,12,14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Amendments to claims 6, 8, and 16 have been entered in the above-identified application. Claims 11 and 13 have been cancelled. **Claims 1-10, 12, 14 and 16-18 are now pending.**

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12, 14 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Dobry et al. (US 2,962,081).

Dobry et al. disclose plastic composition sheets that are adapted for use as floor coverings wherein the process of making such a plastic composition sheet entails depositing uniformly on a backing material a smooth layer of a mixture of fine particles and flat plastic chips (Column 1, lines 49-65). The plastic chips are about 0.18 to 1.0 inches in diameter (equivalent to 4.57 to 25.40 mm) and have a thickness of 0.01 to 0.025 inches (equivalent to 254-635 microns) (Column 2, lines 37-45). The process of the disclosed invention is applicable to various types of plastic compositions used in surface coverings including linoleum (Column 2, lines 71-72). If the plastic composition is linoleum then the linoleum is composed of drying oils, resin, fillers and pigments. The

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oil can be linseed oil. The resin can be rosin or ester gum. The thickness of the plastic layer can be varied and is typically 0.02 to 0.06 inches in thickness (Column 6, lines 11-31, 70-75). Typical of other suitable resins are polymethyl methacrylates (Column 5, lines 27-30). Figure 2 is a cross-sectional view of the surface covering and specifically shows that the plastic chips (10) are imbedded in the matrix of fine granules (11) and wherein a backing material (20) is also present. All limitations of claims 1-14 and 16-18 are disclosed in the above-recited reference.

### ***Response to Arguments***

3. Applicant's arguments filed on October 29, 2004 have been fully considered but they are not persuasive.

Applicants traverse the rejection of claims 1-10, 12, 14 and 16-18 under 35 U.S.C. 102(b) as being anticipated by Dobry et al. (US 2,962,081) and submit that Dobry describes a process including dispersion of plastic chips onto a layer of particles and does not teach dispersing mixed particles onto a rolled linoleum sheet. Applicants further argue that Dobry does not teach that the top layer matrix has contrastingly colored particles dispersed across the entire thickness of the matrix.

First, the Examiner would like to point out that the claimed invention does not preclude the dispersion of plastic chips onto layer of particles and Dobry does in fact teach that the process of making such a plastic composition sheet entails depositing uniformly on a backing material a smooth layer of a mixture of fine particles and flat plastic chips (Column 1, lines 49-65).

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Second, Figure 2 of Dobry is a cross-sectional view of the surface covering and specifically shows that the plastic chips (10) are imbedded in the matrix of fine granules (11) and wherein a backing material (20) is also present.

Hence, the above rejection is maintained.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-

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1504. The examiner can normally be reached on Mondays and Thursdays from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571)272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sheeba Ahmed  
Art unit 1773  
January 6, 2005